

expert recommended sampling strategy options for the Agency's consideration in enforcing the DPM final limit in a September 2007 report. MSHA was reviewing the expert's recommendations when it published its December 10, 2007 Semi-Annual Regulatory Agenda in which the Agency continued to state its intent to propose a rule to convert the 160 TC limit. MSHA now has determined that insufficient data exist to proceed with further rulemaking to convert the DPM final limit using a single, constant conversion factor, such as the 1.3 factor currently used for EC for all mines.

B. Notice of Enforcement of DPM Final Limit

MSHA has developed an enforcement strategy for implementation of the DPM 160 TC PEL beginning May 20, 2008. MSHA will continue to determine a miner's exposure to DPM based on a single personal sample taken over the miner's full shift as specified in existing 30 CFR § 57.5061 of the DPM standard. MSHA will use an EC analysis and appropriate sampling methods to ensure that a citation for a miner's overexposure to the 160 TC PEL is valid and not the result of interferences.

C. Reason for Withdrawal of Intent To Issue a Proposed Rule

MSHA is withdrawing its intent to issue a proposed rule to convert the 160 TC PEL because it has determined that insufficient data exist to support such a rule, and because it has determined that the enforcement strategy it will begin to use on May 20, 2008, is an accurate and effective way of enforcing the DPM standard. This enforcement strategy will provide effective health protections for miners at underground metal and nonmetal mines. In light of MSHA's enforcement action, this notice does not reduce health protections for underground metal and nonmetal miners.

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners is withdrawn from the Regulatory Agenda. This document does not preclude future agency action that MSHA may find to be appropriate.

Dated: May 15, 2008.

John P. Pallasch,

Deputy Assistant Secretary for Mine Safety and Health.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 104

46 CFR Parts 10 and 15

[Docket No. USCG-2008-0028]

RIN 1625-AB26

Implementation of Vessel Security Officer Training and Certification Requirements—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as Amended

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is amending its regulations to implement the vessel security officer training and certification amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, and the Seafarers' Training, Certification and Watchkeeping Code. These amendments incorporate the training and qualification requirements for vessel security officers into the requirements for the credentialing of United States merchant mariners. The vessel security officer requirements would apply to all vessels subject to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, under current regulations. This includes all seagoing vessels, as defined in 46 CFR 15.1101, to mean self-propelled vessels engaged in commercial service that operate beyond the Boundary Line established by 46 CFR Part 7, except those vessels which have been determined to be otherwise exempt from STCW as per 46 CFR 15.103(e) and (f).

DATES: This interim rule is effective June 19, 2008. Comments and related material must reach the Docket Management Facility on or before July 21, 2008. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 21, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG-2008-0028 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

For public submission of comments on collection of information, the subject line should reference the docket number and say Attention: Desk Officer for U.S. Coast Guard, DHS. You must also send comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure that the comments are received on time, the preferred method is by e-mail at oir_submission@omb.eop.gov or fax at 202-395-6566. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, contact Ms. Mayte Medina, Maritime Personnel Qualifications Division, Coast Guard, by telephone 202-372-1406 or by e-mail at Mayte.Medina2@uscg.mil. If you have questions on viewing or submitting material to the docket, contact Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to the docket located at <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0028), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you

include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. For example, we may ask you to resubmit your comment if we are not be able to read your original submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time, click on "Search for Dockets," and enter the docket number for this rulemaking (USCG-2008-0028) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

D. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

II. Acronyms

DOT Department of Transportation
GRT Gross Registered Tons
GT Gross Tons
IMO International Maritime Organization
ISPS International Ship and Port Facility Security Code
MARAD Maritime Administration
MISLE Marine Information for Safety and Law Enforcement
NEPA National Environmental Policy Act
NPRM Notice of Proposed Rulemaking
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
QSS Quality Standards System
REC Regional Examination Center
SOLAS International Convention for the Safety of Life at Sea, 1974
STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
STCW Code Seafarer's Training, Certification and Watchkeeping Code
VSO Vessel Security Officer

III. Regulatory Information

The Coast Guard is issuing this interim final rule without prior notice and opportunity to comment pursuant to section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to these amendments because providing opportunity for public comment is unnecessary and would be contrary to the public interest.

The Coast Guard is implementing VSO training and certification requirements that the U.S. has agreed to as a party to the STCW. This will ensure consistency and harmonize U.S. and international standards for VSO training and certification while at the same time ensuring that the U.S. observes its international obligations. Because the STCW VSO training and certification standards are exhaustive and well-established, pre-publication notice and comment procedures are not necessary to further inform the rulemaking, which follows those requirements.

This interim rule also enhances national maritime safety and security by ensuring careful vetting by the Coast Guard of the qualifications of individuals wishing to serve as VSOs. A delay in implementing this rule would be contrary to the public interest in national maritime safety and security.

This interim rule will also permit mariners to continue working in the

industry on U.S. seagoing vessels outside of U.S. territorial waters by bringing their training and certification into compliance with STCW requirements. This permits U.S. seagoing vessels to continue to travel to and operate in foreign waters and ports without being subject to possible detention for noncompliance with STCW requirements. The Coast Guard believes that permitting U.S. seagoing vessels to continue to operate internationally consistent with STCW VSO training and certification requirements, and without delay, is clearly within the public interest. For these reasons, it is unnecessary and would be contrary to the public interest to further delay implementation of these requirements.

This interim rule will have a 60-day comment period and the rule will be effective 30 days after publication in the **Federal Register**. Coast Guard will address comments received on this interim rule before and after the effective date as part of the final rule process. You may submit a request for a public meeting if you believe one would be beneficial. If you would like to request a public meeting, submit your request as described above in PUBLIC MEETING explaining why one would be beneficial. If we determine a public meeting is necessary, the time and place of the public meeting will be announced by a notice in the **Federal Register**.

IV. Background and Purpose

On July 1, 2007, the International Maritime Organization's (IMO) Maritime Safety Committee adopted the 2006 amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW) and the Seafarer's Training, Certification and Watchkeeping Code (STCW Code) related to training and certification requirements for a vessel security officer (VSO). These amendments support the security requirements in the International Ship and Port Facility Security Code (ISPS) and International Convention for the Safety of Life at Sea (SOLAS), 1974, Amendments, adopted December 2002.

The amendments to the STCW and STCW Code set certification and qualification requirements for VSOs. The STCW set forth qualification standards for Masters, officers and watch personnel on seagoing merchant ships. STCW entered into force in 1984 and the U.S. became a party to the Convention in 1991. As a party to the STCW, the U.S. is committed to implementing the adopted amendments.

The STCW amendments became effective January 1, 2008. Under the STCW amendments, those persons who became vessel security officers (VSOs) on or after January 1, 2008, needed to comply with the new requirements as of January 1, 2008. Those persons who already worked as VSOs prior to January 1, 2008, need to comply with those new requirements by July 1, 2009. This rulemaking is being carried out as expeditiously as possible to ensure that mariners are issued the appropriate international certificates, therefore avoiding vessel detentions for non-compliance with the STCW requirements at foreign ports. Furthermore, the implementation of the rule at this time is meant to ensure there is time for training courses to be developed that comply with the proposed interim regulation and provide all new and existing VSOs with the opportunity to take the course and apply for a VSO endorsement prior to July 1, 2009.

The STCW and STCW Code amendments include: 1. Certification by the Coast Guard of VSOs; 2. completion of sea service requirements; 3. VSO training in accordance with the STCW Code's standard of competence; 4. approval of training courses by the Coast Guard; and 5. continuous monitoring by the Coast Guard through a quality standards system (QSS) of the training courses it accepts. The amendments also contain transitional provisions for persons already serving as VSOs that will expire on July 1, 2009. The STCW and STCW Code amendments were based on the IMO model course for Ship Security Officer.

Currently, 33 CFR 104.215 requires VSOs to have maritime security knowledge which can be obtained through training or equivalent job experience, as self-certified by the owner/operator of the vessel employing the individual. The existing regulations do not require certification by the Coast Guard.

This interim rule amends the current regulations to adopt the STCW and STCW Code amendments related to VSO training and qualifications. To address the primary STCW and STCW Code amendments, the Coast Guard is amending 46 CFR Part 10 to require owner/operators to employ a certified VSO on board each vessel subject to the STCW under current regulations. This includes all seagoing vessels, as defined in 46 CFR 15.1101, to mean self-propelled vessels engaged in commercial service that operate beyond the Boundary Line established by 46 CFR Part 7, except those vessels which have been determined to be otherwise

exempt from STCW as per 46 CFR 15.103(e) and (f).

The Coast Guard will also add VSO training requirements in 33 CFR 104.215 to align the regulations with competence-based training requirements in STCW. The regulations currently require VSOs to have maritime security knowledge in a number of areas contained in 33 CFR 104.210 and in 33 CFR 104.215. The Coast Guard has determined that the VSO training requirements should be contained in one place and that the training requirements should be fully aligned with STCW.

The Coast Guard will also add VSO sea service requirements in 33 CFR 104.215 to align the regulations with the STCW requirements. The existing regulations do not include sea service requirements. The Coast Guard will now require sea service of 12 months or, with knowledge of vessel operations, six months. The Coast Guard determined that these two options were necessary to account for traditional mariners and for other personnel, such as security experts, who already possess knowledge and experience of vessel operations.

V. Discussion of the Interim Rule

Section 104.215 of title 33 of the Code of Federal Regulations currently requires VSOs to have maritime security knowledge. This knowledge can be obtained through training or equivalent job experience, as self-certified by the owner/operator of the vessel employing the individual. The existing regulations do not require certification.

33 CFR 104.215

In 33 CFR 104.215, the regulation will require Coast Guard certification in the form of a VSO endorsement for persons performing duties as VSOs on board vessels subject to the STCW under current regulations. This includes all seagoing vessels, as defined in 46 CFR 15.1101, to mean self-propelled vessels engaged in commercial service that operate beyond the Boundary Line established by 46 CFR part 7, except those vessels which have been determined to be otherwise exempt from STCW as per 46 CFR 15.103(e) and (f).

Section 104.215 will also require that VSOs meet entry requirements such as: 1. Be at least 18 years old; 2. be able to speak and understand the English language sufficiently as related to VSO duties; 3. hold valid credentials; 4. complete VSO training; and 5. have approved sea service. The training requirements will include competence-based mandatory training in order to qualify for a VSO endorsement. VSOs will be required to be trained to meet six

competencies that fully align with the STCW Code, Table A-VI/5, Specifications of minimum standards of proficiency for ship security officers, which may be found in the docket [USCG-2008-0028].

The sea service requirements in § 104.215 will provide two options: 1. 12 months; or 2. 6 months with knowledge of ship operations. In addition to providing evidence of sea service, mariners seeking to qualify for an endorsement using the six-month option will also be required to furnish evidence of knowledge of basic ship operations. A list of ship operations areas is included in this rulemaking at 33 CFR 104.215(d)(3). The list was derived using input from merchant mariners and from maritime instructors.

The STCW requires that all training be approved by the Coast Guard and that the training be continuously monitored through a quality-standard system to ensure achievement of defined objectives. To fulfill this requirement, VSO training courses will be approved and monitored by a Coast Guard-accepted Quality Standards System (QSS) organization acting on behalf of the Coast Guard. The Coast Guard will not directly approve any VSO courses. Any fees charged by the Coast Guard-accepted QSS organizations will be the responsibility of the VSO course provider. As of the publication date of this interim rule, there are three Coast-Guard accepted QSS organizations that may approve and monitor training on behalf of the Coast Guard. The list of these organizations can be found on the following Internet Web site: <http://www.uscg.mil/STCW/mmic-appcourses.htm>.

It is expected that courses accepted for VSO endorsement by the Coast Guard will be based on the IMO model course for ship security officer, or the MARAD VSO model course. Vessel Security Officer courses must also ensure that persons completing the course can successfully demonstrate proficiency in the basic competencies in 33 CFR 104.215(d)(2). Information on MARAD VSO full and refresher courses can be found on the following Internet Web site: <http://www.marad.dot.gov/MTSA/MARAD%20Web%20Site%20for%20MTSA%20Course.html>. The Coast Guard will also accept courses approved by MARAD on behalf of the Coast Guard under section 109 of the Maritime Transportation Security Act of 2002, Public Law 107-295 as meeting the requirements of STCW for purposes of fulfilling the regulatory requirements in 33 CFR 104.215(d)(1)(iv) and (d)(2), as

referenced in 33 CFR 104.215(d)(6). Information on these approved courses can be found on the following Internet Web site: <http://www.marad.dot.gov/MTSA/MARAD%20Web%20Site%20for%20MTSA%20Course.html>.

The Coast Guard will also accept a QSS-approved refresher course for persons who can document six months of experience as a VSO, or have successfully completed a course on vessel security that was not approved by MARAD prior to the effective date of this interim rule.

46 CFR 10.811

Section 10.811 will require proof of compliance with the entry requirements in 33 CFR 104.215 for mariners seeking a VSO endorsement. It will also require the individual to meet the physical examination requirements in 46 CFR 10.205(d)(1)–(2).

46 CFR 15.1113

We are adding 46 CFR 15.1113 which will require that VSOs serving on board vessels subject to the STCW hold an endorsement as VSO. This includes all seagoing vessels, as defined in 46 CFR 15.1101 to mean self-propelled vessels engaged in commercial service that operate beyond the Boundary Line established by 46 CFR Part 7, except those vessels which have been determined to be otherwise exempt from STCW as per 46 CFR 15.103(e) and (f).

VI. Regulatory Evaluation

We developed this interim rule after considering numerous statutes and executive orders related to rulemaking. Below, we summarize our analysis based on 13 of these statutes or executive orders.

A. Regulatory Analysis

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that

Order. It has not been reviewed by the Office of Management and Budget (OMB) under that Order.

A combined Regulatory Analysis and an Initial Regulatory Flexibility Analysis is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. A summary of the analysis follows:

The interim rule would require vessel security officers (VSOs) serving on U.S.-flag vessels subject to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978 as amended (STCW) to complete training requirements consistent with STCW amendments on VSO training and qualifications. This would require existing VSOs and persons that intend to serve as VSOs to hold a Coast Guard-issued credential with a VSO endorsement. The affected vessels would be U.S.-flag self-propelled vessels engaged in commercial service that operate beyond the boundary line as specified in 46 CFR part 15.1101.

The Coast Guard does not plan to directly approve any VSO courses. Instead, VSO training must be Coast Guard-accepted. This means that the courses must be approved and monitored by a Coast Guard-accepted Quality Standards System (QSS) organization acting on behalf of the Coast Guard. Any fees charged by the Coast Guard-accepted QSS organizations will be the responsibility of the course provider.

In addition, persons that have already completed a Maritime Administration (MARAD)-approved VSO course before the effective date of this rule would be considered in compliance with the training requirement and would only need to successfully meet the qualification requirements. Persons that have completed a non-MARAD training course before the effective date of this rule can meet the training requirement by completing a Coast-Guard accepted VSO refresher course. They would be able to serve as a VSO upon completion of the training and they would have

until July 1, 2009, to complete the refresher course. After that time, they will be required to take a full VSO training course.

There are four cost elements associated with this interim rule (1) A VSO refresher course cost, (2) a full VSO course cost, (3) a training provider cost from a Coast Guard-approved QSS, and (4) a VSO endorsement and travel cost to a regional examination center (REC). We estimate that approximately 716 VSOs would need refresher course training and approximately 237 would need to enroll in a full training course. During the first full year the rule is in effect, or 2009, about 1,769 VSOs will incur a cost associated with an REC, and annually, about 190 VSOs will incur the REC cost (we chose 2009 as the first year of the analysis period since most VSOs would complete the required training during that year). The total population of VSOs potentially affected by this interim rule is approximately 1,974, depending upon the training requirement. Under the current rule, VSO training is optional. The number of training providers affected is dependent upon when the training provider courses expired and the renewal date. We estimate the interim rule to affect about 879 U.S.-flag seagoing vessels engaged in commercial service that operate beyond the boundary line as specified in 46 CFR part 15.1101.

We present the costs of this interim rule in 2007 dollars and discount these costs to their present value (PV) over a 10-year period of analysis, 2009–2018, using both seven and three percent discount rates. We estimate the annuitized costs of this interim rule over the 10-year period of analysis to be about \$1.5 million at both seven and three percent discount rates. We estimate the total 10-year (2009–2018) present discounted value or cost of this interim rule to industry to be between \$10.5 and \$12.3 million at both seven and three percent discount rates, respectively. Table 1 below summarizes the costs of the interim rule.

TABLE 1.—SUMMARY OF TOTAL DISCOUNTED COSTS OF INTERIM RULE
[2009–2018, 7 and 3 percent discount rates, 2007 dollars (\$millions)]

Cost item	Discount rates	
	7 percent	3 percent
Coast Guard-approved QSS VSO Training Provider Cost	\$0.25	\$0.32
VSO Refresher Course	1.9	2.0
VSO Full Course	6.6	8.0
VSO Travel Cost to REC	1.9	2.1
Total Interim Rule Cost	10.5	12.3

Totals may not sum due to independent rounding.

From our Marine Information for Safety and Law Enforcement (MISLE) database, we estimate the interim rule to affect about 879 U.S.-flag vessels. Based on guidance from industry representatives, we were able to obtain the number of crews per vessel class assuming one VSO per crew. Based on our discussions with industry representatives, we found that, on average, there are two vessel crews per vessel in a specific vessel class (freight

ships have three crews per vessel). See Table 2 below.

The column labeled “VSOs in Compliance” presents the number of VSOs that have completed the MARAD (Maritime Administration)-approved training and would be in compliance with this interim rule. The last column of Table 2 labeled “Requiring Refresher Training” shows the number of VSOs in each vessel class that would require refresher training. We assume these

persons that would like to serve as VSOs qualify for the refresher course training, either because they have recently served at least six months as a VSO or because they have completed non-MARAD-approved VSO training. Table 2 below summarizes the number of vessels affected per class of vessels, the number of VSOs affected per class of vessel, and the number of VSOs that would need the required training.

TABLE 2.—VSOs AFFECTED BY MARITIME SECURITY TRAINING REQUIREMENT SERVING ON U.S.-FLAGGED SOLAS VESSELS

Vessel service class	U.S.-flagged SOLAS vessels	Crews per vessel	VSOs	VSOs	
				VSOs in compliance	Requiring refresher training
Freight Ship	216	3	648	518	130
Offshore Supply Vessel	197	2	394	197	197
Towing Vessel	179	2	358	179	179
Passenger (Inspected)	132	2	264	53	211
Tank Ship	73	2	146	117	29
Other	82	2	164	98	66
Total	879		1,974	1,162	812

Source: Based on MISLE and industry data.

We assume that VSOs would incur different travel and lodging costs depending upon whether a VSO commuted daily to the training site, drove to the training site city and took lodging during the training period, or flew to the training site city and took lodging.

We used a loaded hourly wage rate of \$61 for all VSOs. A loaded labor rate is what a company pays per hour to employ the person, not what the person makes in hourly wages. The loaded labor rate includes the cost of benefits (health insurance, vacation, etc.). We also used this hourly wage when we estimated the opportunity cost of a VSO's time when a VSO engages in duties or activities in order to comply with the requirements of this interim rule. Furthermore, the Coast Guard has found that VSOs perform maritime security training on their employer's time. Therefore, we made the conservative assumption that VSOs' compliance activities related to obtaining the required training would be performed on their employers' time. As a result, we applied the \$61 loaded hourly wage to these activities rather than the unloaded hourly wage rate of \$44.

Our estimation of costs that VSOs would incur as a result of this interim rule must take into account costs associated with travel to the training site and is dependent upon the distance VSOs live from available training sites. We estimated this distance using the regulatory analysis that supports the Coast Guard's interim rule “Validation of Merchant Mariners” Vital Information and Issuance of Coast Guard Merchant Mariner's Licenses and Certificates of Registry”, published on January 13, 2006 (71 FR 2159). In that analysis, the portion of mariners that reside within 50 miles and 100 miles of their RECs was determined. Given the location of the training sites from the various RECs, and assuming that the distribution of VSOs from their RECs is directly proportional to the distribution of mariners from their RECs, we estimated the portion of VSOs who reside within 50 miles and 100 miles of the training sites. There are 17 RECs located throughout the country and 22 training sites or schools. There are only seven RECs that have training schools within their geographic vicinity. If we draw 50 and 100-mile radius circles around the 17 REC cities and the 22 training provider sites, we would find

that these circles do not neatly overlap one another. However, for the seven RECs that have a training site within their geographic area, some mariners who reside 100 miles from the REC reside within 50 miles of the training site. We based our calculations for all VSOs on these seven RECs in order to determine the share or percentage of VSOs that call a particular REC their REC and that would need to travel to an associated training facility for the required training. Schools are close enough in proximity to these seven RECs in order for us to estimate the share of VSOs that would need to commute, drive and lodge, or fly and lodge.

Based on mariner address information from the Coast Guard's National Maritime Center (NMC) and the regulatory analysis that supports the Coast Guard's interim rule “Validation of Merchant Mariners” Vital Information and Issuance of Coast Guard Merchant Mariner's Licenses and Certificates of Registry”, published on January 13, 2006 (71 FR 2159), we used the percentages presented in the regulatory analysis for that rule as listed in Table 3 below.

TABLE 3.—VSO TRAVEL SHARE BASED ON 50 AND 100-MILE RADIUS CIRCLES AROUND RECS

	Travel mode			
	Commute	Drive/lodge	Fly/lodge	Total
Share	60.0%	30.0%	10.0%	100.0%

In order for us to obtain the share or percentage of VSOs requiring training that would commute, drive/lodge, and fly/lodge around the country for training, we utilized the law of cosines to determine how much of an REC's 50-mile radius circle and 100-mile radius

circle overlaps a school's 50-mile radius circle or 100-mile radius circle. We performed this exercise and calculations for all of the seven RECs that have schools in their geographic vicinity. The relevant REC cities are Baltimore, MD; Miami, FL; New York, NY; Oakland,

CA; Seattle, WA; New Orleans, LA; and Portland, OR.

Based on our calculations, we arrived at the share or percentage of VSOs that would attend the required training schools by travel modes listed in Table 4 below.

TABLE 4.—TOTAL NATIONAL SHARE OR PERCENTAGE OF VSOs THAT WILL COMMUTE, DRIVE/LODGE, AND FLY/LODGE

REC cities	Commute share (%)	Drive/lodge share (%)	Fly/lodge share (%) [*]
Baltimore	4.9	1.95	0.8
Miami	7.7	2.9	1.2
New York	4.4	1.8	0.7
Oakland	1.0	2.0	1.1
New Orleans	2.5	5.0	2.7
Portland	2.3	1.2	0.4
Seattle	3.7	1.8	0.6
Total	26.5	16.7	7.5 + 49.3 = 56.8

Note: The remaining 10 REC cities have no schools associated with them; therefore, we added together the share or percentage of VSOs that call those cities their respective REC for a total of 49.3 percent. VSOs that attend schools in these cities would fly and lodge; therefore, we added these percentages to the fly/lodge category. From our calculations of the seven REC cities, we found the percentage of VSOs that would fly/lodge to be about 7.5 percent. Therefore, the total share or percentage of VSOs that will fly/lodge is about 56.8 percent (0.493 + 0.075).

Totals may not sum due to independent rounding.

From Table 1, there are 1,974 VSOs that serve on U.S.-flag SOLAS vessels under STCW. To obtain the number of VSOs that will need refresher training, we must subtract from the total number of VSOs (1,974) those VSOs that have completed MARAD-approved training (1,162) to obtain 812 VSOs that will need refresher training (1,974 – 1,162 = 812 VSOs). We also introduce an annual industry turnover rate of 0.12 or 12 percent. This turnover rate measures the annual flow of personnel leaving and entering the water transportation industry, rather than the flow of personnel leaving or entering the average firm in this industry. We assume that existing VSOs also leave at this rate and that all persons replacing

these VSOs would be required to enroll in the full course training. We now multiply the number of VSOs requiring refresher course training from Table 1 (812) by 0.88 (the complement of the turnover rate, which is the retention rate) to obtain 716 or the number of VSOs that would need refresher course training. Cost for a refresher course is an initial-year cost only.

To obtain the number of VSOs that would need to enroll in a full course, we multiplied the total number of VSOs (1,974) by the turnover rate (0.12) to obtain about 237 VSOs who would need to enroll in a full course annually. Full course training is an annual recurring cost.

To obtain the number of VSOs by mode of travel, we simply multiplied the final percentages in Table 4 by the number of VSOs that require refresher course and full course training, respectively. For example, we calculated the total percentage of VSOs that would commute to be about 0.265 or 26.5 percent. The number of VSOs that would need full course training is about 237, so we multiplied 0.265 by 237 to obtain 63. Restated, the number of VSOs that will need full course training and will commute to the training school is about 63. See Table 5 below for the remaining population figures.

TABLE 5.—SUMMARY OF NUMBER OF VSOs BY TRAVEL MODE AND BY TRAINING TYPE

Training type	VSOs by travel mode			
	Commuting	Drive/lodge	Fly/lodge	Total
Full Course Training	63	39	135	237
Refresher Training	190	120	407	716

Totals may not sum due to independent rounding.

Readers should refer to the regulatory analysis in the docket for a summary of

all of the individual VSO costs associated with the full training course.

Next, we multiplied the total costs per VSO by the population figures for full

course training in Table 5 to obtain a total initial and annual cost (non-discounted) for VSOs who take the full training course of \$934,476. We performed the same analysis for the refresher course and obtained a total initial-year cost (non-discounted) of about \$2,008,822 for VSOs that need refresher course training. Again, readers should refer to the regulatory analysis in the docket for all of the individual VSO costs associated with the refresher course.

We estimate the total present discounted value or cost for the training requirements of the interim rule to be between \$8.4 and \$9.9 million at both seven and three percent discount rates, respectively. The training requirement

is the most costly element of the interim rule.

The third cost element of this interim rule is the cost that a VSO will incur to obtain an endorsement on their Merchant Mariner Credential from an REC. A merchant mariner document expires every five years, so we assume that one-fifth (0.20 or 20 percent) of the VSOs every year would currently be required to make a trip to the REC to renew this document. Of the 1,974 VSOs in our population, 80 percent (1.00–0.20) of these VSOs in the initial year would be required to make an additional trip to an REC to get an endorsement, or about 1,579.

During the initial year and annually, only VSOs that take the full course will

be affected by this element of the interim rule. We estimate about 190 VSOs will be required to make an additional trip to an REC (237×0.80) each year to get an endorsement.

Some VSOs would have to travel to an REC anyway once every five years to renew their merchant mariner document. We estimate that 395 VSOs out of the total number of VSOs would have had to travel to an REC anyway without the rule in place ($1,974 \times 0.20$). From the number of VSOs that need to take the full course, we estimate that about 47 also would have had to travel to an REC anyway without the rule in place (237×0.20) in order to renew their merchant mariner document. Table 6 summarizes these figures below.

TABLE 6.—DISTRIBUTION OF VSO TRAVEL TO AN REC FOR ENDORSEMENT

Time	Required to make an additional trip to an REC	Not required to make an additional trip to an REC	Total
Initial Year	1,579	395	1,974
Initial and Annual Year	190	47	237

Individual VSOs that need to obtain an endorsement from an REC would also incur travel costs similar to those presented for the training requirements (readers should refer to the regulatory analysis in the docket for all of the individual VSO costs associated with the endorsement requirement). We estimate VSOs would incur an initial-year cost of about \$1.2 million (non-discounted) and an annual cost of about \$0.13 million (non-discounted). We estimate the total presented discounted value or cost to be about \$2.0 million at both seven and three percent discount rates over the period of analysis.

Lastly, the final cost element associated with this interim rule is the cost that training providers will incur for security training course evaluation and oversight. Since the Coast Guard does not approve VSO training courses, the onus is on the training provider to pay a Coast Guard-approved Quality Standards System (QSS) organization to evaluate its VSO course for approval. Approval from a QSS organization would constitute Coast Guard acceptance of the course. Currently, MARAD pays one of the Coast Guard-approved organizations to approve courses on behalf of MARAD and the Coast Guard. Under this interim rule, the cost burden for course approval and oversight shifts to the training provider. There are 22 training providers throughout the U.S. The cost per course evaluation is about \$7,500 and is valid

for five years. We estimate the total present discounted value or cost of the interim rule to training providers to be about \$0.30 million at both discount rates over the period of analysis.

Readers should refer to the regulatory analysis in the docket for a detailed analysis of the costs associated with this interim rule.

The interim rule has several qualitative benefits associated with it. The current training regime requires the designation of a VSO, but it does not require formal training, instead it allows owners/operators to self-certify their VSOs as having the security training. Under this regime, the expertise and knowledge varies from person to person and from vessel to vessel. This regime has proven to be less effective since there is no consistency in the attainment of the knowledge throughout the industry.

Development of mandatory training requirements is necessary to ensure consistency of training in support of the domestic and international security regime. Seafarers constantly transfer from vessel to vessel; therefore, mandatory training would ensure consistency no matter where they serve. A course approval process in support of the mandatory requirements would lead to a higher quality of security training.

The STCW requires that the Coast Guard issue a certificate of proficiency to the mariner. An endorsement to the STCW certificate would serve as proof

that a VSO has met the certificate of proficiency requirement and would eliminate the issuance of a separate Coast Guard-issued document.

Issuance of endorsements is also beneficial for U.S. vessels trading worldwide, since they would not be subject to detentions for non-compliance with the STCW. These new requirements would provide a systematic and verifiable program of certification and oversight, providing effectiveness, sufficient rigor, and consistency to maritime security education and training. The absence of a systematic and verifiable program of external certification and oversight, insufficient rigor, and a lack of consistency may render maritime security education and training less effective than it should be.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This interim rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the

requirements of the Regulatory Flexibility Act. Although this interim rule is exempt, we have reviewed it for potential economic impact on small entities.

From the Coast Guard's MISLE database, there are 879 vessels, owned by 157 entities, impacted by the interim rule. For the purpose of this initial analysis, we estimate average impacts per owner. Discussions with industry revealed that there are approximately 245 VSOs leaving the industry each year, requiring the average vessel owner to hire (245 VSOs/879 vessels) 0.3 new

VSOs per vessel each year. In addition, an average of about one (716 VSOs/879 vessels) partially trained VSO per vessel would be required to take a refresher course.

Using data from the two business databases, we researched all 157 companies and found annual sales and employment information for 56 of them. We identified 43 of these 56 entities as small businesses (about 77 percent) using the SBA's criteria and assumed the 101 companies with no revenue data were also small for a total of 144 of 157 of the entities (92 percent).

To estimate the impact on small entities, we multiplied the cost for full and refresher VSO courses by the average number of VSOs per vessel attending training each year. Vessel owners would incur a first-year cost for the refresher course and an annually recurring cost for the full course. We estimate the full course cost per vessel to be about \$1,331 ($\$4,435 \times 0.3$ VSOs per vessel) and the refresher course cost per vessel to be about \$3,326 ($\$3,326 \times 1.0$ VSOs per vessel). Table 7 summarizes the costs for a full VSO course and the shorter refresher course.

TABLE 7.—PER VESSEL COST FOR VSO TRAINING (NON-DISCOUNTED)

Course	Total course cost***	VSOs per vessel	Total
VSO Full Course *	\$4,435	0.3	\$1,331
VSO Refresher **	3,326	1.0	3,326

* The full course cost is an annually recurring cost based on the industry VSO turnover rate.

** The VSO refresher cost is a first-year cost for partially-trained VSOs.

***To be conservative, we used the higher cost estimates for mariners that fly in order to reflect the maximum potential economic impact on a given small business. The cost includes tuition, opportunity costs, transportation costs, etc.

We estimate the revenue impact as the total cost per vessel multiplied by the number of vessels each affected entity owns. In the first year, vessel owners would incur the cost for the refresher course and the full course. Using publicly available and proprietary data

on owner revenue, we estimate the impact to small entities as a percentage of revenue. The first year cost of the interim rule would have less than a 3 percent impact on 72 percent of the small entities. Table 8 presents the number of small entities in the sample

and the estimated range of the initial year impact on revenue as a result of the interim rule requirements. The percentage of small entities in each impact range in the sample is then projected to the total estimate of small entities.

TABLE 8.—INITIAL YEAR IMPACT TO SMALL ENTITIES (NON-DISCOUNTED)

Percent impact on annual revenue	Number of small entities with known revenue data	Percent of small entities with known revenue data (percent)	Total small entities
0% to 1%	31	72	104
>1% to 3%	0	0	0
>3% to 5%	5	12	17
>5% to 10%	5	12	17
Above 10%	2	5	7
Total	43	100	144

Totals may not sum due to independent rounding.

After the initial year of the rulemaking, the annual impact on small businesses is lower because vessel owner and operators would no longer

incur the cost of the refresher course for VSOs. We found that annual costs would have less than a 3 percent impact on 79 percent of small entities. Table 9

below presents the estimated annual impact on small entities.

TABLE 9.—ANNUAL IMPACT TO SMALL ENTITIES (NON-DISCOUNTED)

Percent impact on annual revenue	Number of small entities with known revenue data	Percent of small entities with known revenue data (percent)	Total small entities
0% to 1%	31	72	104
>1% to 3%	3	7	10
>3% to 5%	3	7	10
>5% to 10%	5	12	17

TABLE 9.—ANNUAL IMPACT TO SMALL ENTITIES (NON-DISCOUNTED)—Continued

Percent impact on annual revenue	Number of small entities with known revenue data	Percent of small entities with known revenue data (percent)	Total small entities
Above 10%	1	2	3
Total	43	100	144

Totals may not sum due to independent rounding.

To the extent that new courses open after publication of the interim rule, there would be a reduction in the travel costs associated with the preliminary cost estimates in the RA. However, the revenue impacts provide a conservative estimate of the impact to small entities.

Training providers would incur a cost for security training course evaluation and oversight. The NAICS codes for training providers were varied with 541618—Other Management Consulting Services—being the only code to appear more than once. The SBA annual revenue threshold for this NAICS code is \$6,500,000.

Most training providers do not offer all types or progressions of training discussed in this interim rule. Based on Coast Guard data, we identified 22 maritime training providers that offer some type of Coast Guard-approved training and could be affected by this rulemaking. Of the 22 training providers that offer training impacted by the interim rule, we were able to collect revenue data for 12. Of the 12 with revenue data, 10 are small entities as defined by the SBA and we assume the remaining 10 to be small, for a total of 20 of the 22 entities being classified as small. Of the small entities with revenue data, we found five (50 percent) would incur an impact of less than 1 percent of annual revenues in the year a course was registered and the remaining five (50 percent) would incur a cost of less than 3 percent of annual revenues.

We anticipate that new or existing training providers that do not currently offer the training described in this rulemaking would only begin to offer the training described if they expect it to be net-beneficial. To the extent that training providers are able to pass the cost to mariners, the impact would be less than estimated above.

Lastly, the onus of obtaining an endorsement from an REC is on an individual VSO. The interim rule does not require a VSO's employer to pay for this endorsement. We note that for the purposes of the Regulatory Flexibility Act an individual is not considered to be a small entity. However, previously in this small entity impact analysis, we

have shown the cost to the employer if the employer voluntarily chooses to incur or reimburse the employee for costs related to receiving the VSO endorsement. We are interested in the potential direct impacts of this interim rule on small businesses and we request public comment on these potential direct impacts. If you think that this interim rule would have a significant economic impact on you, your business, or your organization, please submit a comment to the Docket [USCG–2008–0028]. In your comment, explain why, how, and to what degree you think this rule would have an economic impact on you.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the interim rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call the contact provided in For Further Information Contact above. The Coast Guard will not retaliate against small entities that question or complain about this interim rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This interim rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–

3520). As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Vessel Security Officers must meet minimum training requirements and receive an endorsement from a regional examination center (REC). Vessel Security Officers would be required to complete form CG–719B and deliver the form to an REC for endorsement. This collection is in addition to the current collection of information estimate for VRPs and FRPs [Office of Management and Budget (OMB) 1625–0040].

Title: Continuous Discharge Book, Application, Physical Exam Report, Sea Service Report, Chemical Testing, Entry Level Physical.

OMB Control Number: 1625–0040.

Summary of the Collection of Information: Vessel Security Officers would be required to obtain an endorsement on their merchant mariner document from an REC to prove a minimum level of training has been completed. Mariners currently complete form CG–719B every 5 years, but the interim rule would require many VSOs to obtain an endorsement prior to the expiration of their existing document.

Need for Information: The information is necessary to show evidence that VSOs have completed the necessary training requirements to assess risk, threats, and vulnerabilities of a vessel.

Use of Information: The Coast Guard would use this information to document that the VSO training level meets international requirements.

Description of the Respondents: The respondents are the VSOs that would be required to complete form CG–719B.

Number of Respondents: From Table 11, the number of respondents is 1,579

in the first year plus an additional 190 recurring annually, including the first year for a 3-year total of 2,149 [1,579 + (3 × 190)].

Frequency of Response: Respondents are required to complete form CG-719B every 5 years. The interim rule would require 1,579 new applications in the first year and an additional 190 new applications recurring annually.

Burden of Response: Completing the information on CG-719B would take a VSO approximately 10 minutes. In the first year, 20 percent of VSOs are assumed to be completing the form due to the expiration of their merchant mariner document, but the remaining 80 percent detailed in the Number of Respondents section would incur the 10-minute burden.

Estimate of Total Annual Burden: The existing OMB-approved total annual burden, as adjusted in July 2006, is 329,356 hours. This interim rule would increase the burden for 2,149 VSOs over a 3-year approval period by approximately 10 minutes. The total additional hours requested for this rulemaking is 358 [2,149 × (10 minutes/60 minutes)] and the average annual increase over the 3-year period is about 119 (358/3). The new annual burden as a result of this rulemaking is 329,475 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this interim rule to OMB for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket where indicated under **ADDRESSES**, by the date under **DATES** in the interim rule.

You need not respond to a collection of information unless we have published a currently valid control number from OMB for that collection in the **Federal Register**. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection. If OMB approves the collection, our publication of that control number in the **Federal Register** or the CFR will constitute

display of that number; see 5 CFR 1320.3(f)(3), as required under 44 U.S.C. 3506(c)(1)(B).

E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States v. Locke and Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of

Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969

(NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary “Environmental Analysis Check List” supporting this determination is available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. We seek any comments or information that may lead to discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 104, and 46 CFR parts 10 and 15 as follows:

TITLE 33 CFR—NAVIGATION AND NAVIGABLE WATERS

PART 104—MARITIME SECURITY: VESSELS

■ 1. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 104.215 by re-designating paragraph (c) as paragraph (e) and adding new paragraphs (c) and (d).

§ 104.215 Vessel Security Officer (VSO).

* * * * *

(c) *Certification required.* After July 1, 2009, persons performing duties as VSO on-board a seagoing vessel subject to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, must hold a valid Coast Guard-issued credential with a Vessel Security Officer endorsement. The Coast Guard will issue this endorsement only if the person meets the requirements in paragraph (d) of this section. This endorsement serves as proof that the person meets the ship security officer requirements of Regulation VI/5 of the STCW.

(d) *Requirements for Coast Guard Endorsement:* (1) To qualify for a VSO endorsement, a person must:

- (i) Be at least 18 years of age;
- (ii) Be able to speak and understand the English language as would be relevant to the duties of a VSO;
- (iii) Hold any valid Coast Guard-issued credential under the regulations specified in 46 CFR Subchapter B;
- (iv) Successfully complete a Coast Guard-accepted VSO course;
- (v) Sea Service. Fulfill one of the following:

(A) Have approved sea service of not less than 12 months on any vessel subject to § 104.105 of this part, credited in accordance with 46 CFR 10.205(e), 10.211, and/or 10.213; or

(B) Have approved sea service of not less than 90 days on any vessel subject to § 104.105 of this part, credited in accordance with 46 CFR 10.205(b), 10.211, and/or 10.213, and have knowledge of vessel operations.

(2) To qualify as a Coast Guard-accepted course a VSO course under paragraph (d)(1)(iv) of this section must require candidates to demonstrate knowledge, understanding, and proficiency in the following competencies:

- (i) Maintaining and supervising the implementation of a vessel security plan;
- (ii) Assessing security risk, threat and vulnerability;
- (iii) Undertaking regular inspections of the vessel to ensure that appropriate security measures are implemented and maintained;
- (iv) Ensuring that security equipment and systems, if any, are properly operated, tested and calibrated;
- (v) Encouraging security awareness and vigilance; and
- (vi) Ensuring compliance with the TWIC program requirements.

(3) Candidates meeting the knowledge of vessel operations requirement under paragraph (d)(1)(v)(B) of this section must provide evidence through training or equivalent job experience, in the following areas:

- (i) Basic vessel layout and construction:
- (A) Understanding layout, including decks, rooms and space numbering; and
- (B) Understanding of various vessel types; and working knowledge of nautical terms and definitions, especially those used to describe areas and parts of a vessel.

(ii) Shipboard organization: familiarity with the various departments and related functions, the titles used for personnel, the roles and responsibilities of these persons, and the chain of command.

- (iii) Shipboard safety:
- (A) Understanding of the importance of creating and maintaining safe

working and living conditions for passengers and crew alike;

(B) General shipboard safety rules, emergency alarms and signals, and responses to and reporting of accidents;

(C) Proper usage of protective equipment and general knowledge of procedures for entering enclosed spaces;

(D) Proper usage of lifesaving equipment and where such equipment is normally stowed aboard various vessel types;

(E) Understanding of the operating principles of and proper use of watertight and fire screen doors; and

(F) Understanding where it is safe to smoke and not safe to smoke on board and in port.

(iv) Protection of the marine environment:

(A) Understanding of vessel personnel's responsibility to preserve the marine environment; and

(B) Basic working knowledge of pollution prevention regulations and techniques.

(v) Familiarity with key definitions, terminology, and operational practices employed in the maritime industry.

(4)(i) Persons meeting the criteria in paragraphs (d)(4)(i)(A) and (B) of this section prior to the effective date of this regulation may successfully complete a refresher Coast Guard-accepted VSO course no later than July 1, 2009, to fulfill (d)(1)(iv) of this section. Persons must have:

(A) At least six months of VSO experience during the preceding three years; or

(B) Successfully completed a VSO course that was not approved by the Maritime Administration (MARAD) on behalf of the Coast Guard. Maritime Administration approves VSO courses under section 109 of the Maritime Transportation Security Act of 2002, Public Law 107–295.

(ii) To be eligible to take a refresher Coast Guard-accepted VSO course, a person must present to the course provider documentary evidence that he or she meets the criteria in (d)(4)(i) of this section.

(5) Vessel Security Officer courses meeting the training requirements in paragraphs (d)(2) and (d)(4) of this section are subject to Coast Guard acceptance under 46 CFR 10.309(a)(10)(ii).

(6) Vessel Security Officer courses approved by MARAD on behalf of the Coast Guard under section 109 of the Maritime Transportation Security Act of 2002, Public Law 107–295 will be accepted by the Coast Guard under 46 CFR 10.309 as meeting the requirements of paragraphs (d)(1)(iv) and (d)(2) of this section.

(7) Persons who hold a valid "Vessel Security Officer" endorsement may serve as vessel or company personnel with security duties (33 CFR 104.220), and as all other vessel personnel (33 CFR 104.225), without meeting any additional requirements.

TITLE 46 CFR—SHIPPING

PART 10—LICENSING OF MARITIME PERSONNEL

■ 3. The authority citation for part 10 continues to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, and 8906; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

■ 4. In § 10.104, add the definition of Vessel Security Officer in alphabetical order to read as follows:

§ 10.104 Definitions of terms used in this part.

* * * * *

Vessel Security Officer (VSO) means a person onboard the vessel accountable to the Master, designated by the Company as responsible for security of the vessel, including implementation and maintenance of the Vessel Security Plan, and for liaison with the Facility Security Officer and vessel's Company Security Officer.

* * * * *

■ 5. Add § 10.811 to read as follows:

§ 10.811 Requirements to qualify for an STCW endorsement as vessel security officer.

(a) The applicant for an endorsement as vessel security officer must present satisfactory documentary evidence in accordance with the requirements in 33 CFR 104.215.

(b) All applicants for an endorsement must meet the physical examination requirements in § 10.205(d)(1)–(2) of this chapter.

PART 15—MANNING REQUIREMENTS

■ 6. The authority citation for part 15 continues to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, 9102, and 8103; and Department of Homeland Security Delegation No. 0170.1.

■ 7. Amend § 15.301 by adding paragraph (b)(10) and revising paragraph (b)(11) to read as follows:

§ 15.301 Definitions of terms used in this part.

* * * * *

(b) * * *

(10) GMDSS radio operator; and

(11) Vessel Security Officer.

* * * * *

■ 8. In § 15.1101, add paragraph (a)(6) to read as follows:

§ 15.1101 General.

(a) * * *

(6) *Vessel Security Officer (VSO)* means a person onboard the vessel accountable to the Master, designated by the Company as responsible for security of the vessel, including implementation and maintenance of the Vessel Security Plan, and for liaison with the Facility Security Officer and vessel's Company Security Officer.

* * * * *

■ 9. Add § 15.1113 to read as follows:

§ 15.1113 Vessel Security Officer (VSO).

After July 1, 2009, on board seagoing vessel, all persons performing duties as VSO must hold a valid endorsement as Vessel Security Officer.

Dated: May 6, 2008.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.

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37 CFR Parts 201

[Docket No. RM 2008–5]

Late-Filed and Underpaid Royalties

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office is amending its rules governing the payment of interest on late or underpaid royalty fees under the Copyright Act to clarify when interest for late and underpayments is due in light of the Copyright Office's electronic funds transfer requirement. In addition, the Copyright Office amends the rules to add text that was inadvertently deleted by a previous rulemaking action. The Copyright Office also makes a technical correction to its satellite carrier requirements to recognize changes made to Section 119 in 2004.

EFFECTIVE DATE: May 20, 2008.

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SUPPLEMENTARY INFORMATION: On August 10, 2006, the Copyright Office published a final rule requiring the submission of royalty fees to be made by electronic funds transfer ("EFT"). 71 FR 45739 (August 10, 2006). The purpose of this notice is to make technical amendments to Section 201.17(i) and other similar rules for satellite carriers and digital audio recording technologies to clarify when interest accrues for late and underpayments in light of the recent EFT requirement. In addition, we intend to re-insert regulatory text, originally contained in Section 201.17(i)(2), that was incorrectly deleted from Title 37 CFR when the EFT requirements were adopted.

I. Electronic Funds Transfer Requirement

Under the new EFT regulations, 37 CFR 201.17(i), a number of changes were made regarding the payment of copyright royalties. The most important change was that payment could only be made through an electronic funds transfer. This change eliminates the options of payment by certified or cashier's check, or money order. Most payors already use EFTs, and requiring the use of EFTs substantially enhances the efficiency of the collection process. The regulations also require that the parties submit specific identifying and linking information as part of the EFT, and/or as part of a "remittance advice" which accompanies Statement(s) of Account, and that the "remittance advice" be faxed or emailed to the Licensing Division. Failure to submit the EFT in accordance with the rules may require the remitter to resubmit the EFT correctly. Should this occur, the remitter will be responsible for any assessed interest charge that accrues as a result of a late payment or an underpayment.

The rules now include a waiver provision for those situations where there may be circumstances which make it virtually impossible for a remitter to use the electronic payment option or imposes a financial or other hardship. Requests for a waiver must include a statement setting forth the reasons why the waiver should be granted and the statement must be signed by a duly authorized representative of the entity making the payment, certifying that the